THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 2797 of 2006

DATED 17.02.2006

Between:

M.Narasimhulu

..... PETITIONER

AND

The Revenue Divisional Officer, Adoni and another

.....RESPONDENTS

THE HON'BLE MR JUSTICE GODA RAGHURAM

–

WRIT PETITION NO : 2797 of 2006

ORAL ORDER:

The petitioner is a fair price shop dealer for Yemmiganur, Kurnool District.

On the basis of a report submitted by the second respondent, the first respondent issued a show cause notice dated 22.12.2004 framing charges against the petitioner alleging irregularities in the conduct of the business. The first respondent in proceedings Rc.M.No.1364/2004 dated 31.10.2005 suspended the petitioner's authorization for a period of three months i.e. from November, 2005 to January, 2006. The petitioner has not been communicated any order with regard to the status of his authorization subsequent to January, 2006.

The petitioner's complaint is that even after the conclusion of the period of suspension of his authorization, the respondents have failed to supply him the essential commodities for pursuing his business and that he has obtained demand draft for Rs.36,023/-, dated 01.02.2006 for lifting the commodities and submitted the same to the second respondent. The second respondent thereupon insisted for orders to be passed by the first respondent. When the petitioner approached the first respondent, there is no response from him. The respondents are interested, alleges the petitioner, in continuing the dealer who was appointed ad-interim to look after the fair price shop for the three months during the suspension of the petitioner's authorization.

On instructions the learned Government Pleader for Civil Supplies submits that the first respondent has passed orders on 03.02.2006 extending the suspension of authorization till April, 2006. Per contra, the learned counsel for the petitioner submits that the first respondent has not communicated any order of extension of the suspension of authorization to the petitioner.

It is a well established principle that an administrative order is efficacious only on communication. As long as an administrative order is within the custody of the author and has not been put in a course of communication so as to go out of the reach of the author and addressed to the person concerned, an administrative order cannot be said to have become efficacious. It is an order in *locus penitenti* and is susceptible withdrawal, or cancellation by the author.

In view of the statement made by the learned Government Pleader for Civil Supplies that the order dated 3.2.2006 was not communicated, there is no extent and operative of order extension or suspension of the petitioners authorization. The petitioner is therefore entitled and the respondents obligated to supply him the essential commodities, on the petitioner submitting the necessary application accompanied by the necessary amounts. The petitioner's assertion that he has taken a demand draft for Rs.36,023/- on 1.2.2006 is not denied.

In the above circumstances, the writ petition is disposed of directing the respondents to forthwith supply essential commodities to the petitioner on the petitioner fulfilling the necessary formalities for the supply. The commodities shall be made for the month of February, 2006. If, however, the stocks for the month of February, 2006 have already been distributed through another dealer treating the petitioner's suspension of authorization as continuing, the respondents shall supply the stocks to the petitioner for the month of March, 2006. The respondents are at liberty to pursue appropriate administrative action in accordance with law.

As the respondents have failed to supply the essential commodities to the petitioner without any efficacious order extending the suspension of authorization having been passed, the conduct of the respondents is arbitrary and unsustainable. The petitioner has suffered a legal injury and is entitled to complementary compensation.

The writ petition is accordingly disposed of as above and with costs of Rs.2,500/-. The State is at liberty to pursue appropriate measures for recovery of these amounts from the officers responsible who have failed to supply commodities without a valid order of suspension of the petitioner's

authorization.

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17-02-2006

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Note: CC by Monday